IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1180 of 1989
To
FIRST APPEAL No 1182 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

OFFICER ON SPECIAL DUTY

Versus

YACOOB MOHMED UNIA

Appearance:
Ms. R.V.Acharya, learned AGP for the appellants
MR AKIL KURESHI for Respondents

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 27/03/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

1. These three First Appeals under Sec.54 of the Land Acquisition Act read with Sec.96 of the Civil

Procedure Code are directed against the common judgment and award in Land Acquisition Reference Cases Nos.160/84 (main case), 156/84 and 159/84 passed by the 2nd Extra Assistant Judge at Bharuch on 3.1.89. All these three appeals were admitted on 7.2.90.

2. Learned counsel for the respondents - claimants moved a Note on 15.2.2001 for listing these matters before the Court for final hearing and prayed that these Appeals may be decided on the basis of the judgment rendered by the Division Bench of this Court in First Appeals Nos.170/90 to 193/90 with First Appeals Nos.2527/92 to 2551/92 on 23.12.98.

3. The lands of village Piraman of Ankleshwar Taluka were sought to be acquired for the purpose of expansion of Ankleshwar Industrial Estate. For that purpose the Notification under Sec.4 of the Land Acquisition Act was issued on 18.8.77 and published in the Government Gazette on 20.10.77 and the amended Notification under Sec.4 was published in the Government Gazette on 26.1.78. The Notification under Sec.6 of the Land Acquisition Act dated 7.5.79 was published in the Government Gazette on 27.10.79 and the amended Notifications were published on 16.4.80 and 16.10.81. The Special Land Acquisition Officer awarded the compensation at the rate of Rs.30,000/-- per Hector for the lands of Gadkhol Village and Rs.25,000/-- per Hector for the lands of Piraman Village. Aggrieved from the award, the land owners took the matter under Reference. The Reference Court found that claimants were entitled to increase on market value @ 12% from 26.1.78 to 26.4.83 and awarded compensation at the rate of Rs.630/-- per Are as against the claim of Rs.85,000/-- per Are and directed for payment of additional compensation of Rs.35,053.20 Ps. in Reference Case No.160/84; Rs.47,032.40 Ps. in Reference Case No.156/84 and Rs.1,40,222.05 Ps. in Reference Case No.159/84 with running interest at the rate of 9% per annum for the first year from the date of Award and for subsequent period till the date of payment with running interest at the rate of 15% per annum with proportionate costs. It is this common judgment and award, which is under challenge in these three Appeals.

4. It is the common case of the parties and both the sides have submitted that these appeals may be decided on the basis of the common judgment rendered in First Appeals Nos.170/90 to 193/90 with First Appeals Nos.2527/92 to 2551/92 by the Division Bench on 23.12.98. However, Mr. Akil Kureshi has orally submitted that the common judgment and award, which is impugned in these

Appeals, was in fact subjected to review at the instance of the claimants and while reviewing the matter, the Reference Court has revised the rate of compensation to Rs.765/-- per Are instead of Rs.630/-- per Are, but the respondents - claimants are satisfied with the rate of Rs.685/-- per Are, as has been decided by this Court and do not contest for Rs.765/-- per Are as was ordered in the Review by the Reference Court; although the appellants in these cases have not challenged the order, which was passed in Review.

5. In the facts and circumstances of these cases, we find that these three Appeals deserve to be decided on the basis of the earlier Judgment of the Division Bench rendered on 23.12.98 in First Appeals Nos.170/90 to 193/90 with First Appeals Nos.2527/92 to 2551/92 and for the reasons given in the said judgment dated 23.12.98 we decide these Appeals by the following order:-

All these three Appeals are partly allowed. It is held that the market value of the acquired lands on the date of publication of the Notification under Sec.4(1) of the Act i.e. 20.10.77 is determined at the rate of Rs.685/-- per Are of the acquired lands. Whereas the Appeals filed by the State of Gujarat are partly allowed, the direction given by the Reference Court to pay interest on the amounts envisaged under Sections 23(1-A) and 23(2) of the Act is set aside. The direction with regard to the amount calculated at the rate of 12% per annum under Sec.23(1-A) is also modified and the claimants shall be entitled to the additional amount under Sec.23(1-A) from 20.10.77 till the date of taking over possession of the acquired lands. The claimants shall be entitled to interest under Sec.28 of the Act from the date of taking over possession of the lands acquired at the rate of 9% for the first year and on expiry of first year, at the rate of 15% per annum till realisation or till deposit of the enhanced compensation in the Court. No order as to costs. The impugned common Award stands modified accordingly and the Registry is directed to draw the decree in terms of this order.

(M.R.Calla,J)

(D.H.Waghela,J)